

NAURU 2021 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Nauru is a constitutional republic. International observers deemed the 2019 parliamentary election to be generally free and fair. Parliament elected Lionel Aingimea, a former human rights lawyer and second-term member of parliament, as president.

The police force, under the Minister for Police and Emergency Services, maintains internal security and, as necessary, external security. The country has no military force. Civilian authorities maintained effective control over the security forces. Members of the security forces committed few abuses.

Significant human rights issues included credible reports of censorship and the existence of criminal libel laws, although there were no such cases of the latter issue during the year.

There were no reports that government officials committed egregious human rights abuses or corruption, and impunity was not a problem. The government had mechanisms in place to identify and punish officials who may commit human rights abuses or corruption.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or

Punishment

The constitution prohibits such practices, and there were no reports that government officials employed them.

Impunity was not a significant problem in the security forces.

Prison and Detention Center Conditions

There were no significant reports regarding prison conditions that raised human rights concerns.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions or prisoner abuse.

Administration: There were no reports that authorities failed to conduct proper investigations of credible allegations of mistreatment.

Independent Monitoring: The government permits prison and detention center monitoring visits by independent human rights observers. There were no reports that such visits occurred during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

Authorities made arrests based either on warrants issued by authorized officials or for proximate cause by a police officer witnessing a crime. Police may hold a person for a maximum of 24 hours without a hearing before a magistrate.

Authorities informed detainees promptly of the charges against them. The bail system functioned properly. The law provides for accused persons to have access to legal assistance, but qualified assistance was not always readily available.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

English common law provides the basis for procedural safeguards, including the presumption of innocence, the right to be present at one's own trial, adequate time and facilities to prepare a defense, the right to free interpretation as necessary from the moment charged through all appeals, and prohibitions on double jeopardy and forced self-incrimination. Defendants have the right to be informed promptly of charges and consult with an attorney or have one provided at public expense as necessary "in the interest of justice." Defendants also have the right to confront witnesses, present evidence, not be compelled to testify or confess guilt, and appeal convictions. The law extends these rights to all suspects. There was no legal provision for traditional reconciliation mechanisms; however, as a mitigating factor in sentencing, apologies and reconciliation frequently played an informal role in criminal proceedings. This was sometimes due to communal pressure.

The law limits defendants' access to overseas lawyers, barring them from participating in local cases unless specifically instructed by a local lawyer or pleader with 10 years of legal experience in Nauruan law.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The judiciary generally functioned in an independent and impartial manner in civil matters. Individuals or organizations have access to the court to bring lawsuits seeking damages for, or cessation of, human rights violations.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home,

or Correspondence

The constitution and laws prohibit such actions, and there were no reports the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution and law provide for freedom of expression, including for members of the press and other media; however, the government owned all media and exercised some editorial control over content.

Censorship or Content Restrictions: The government owned all media, giving it significant control over published and broadcast content.

Libel/Slander Laws: By law “unlawful vilification” and “criminal defamation” are punishable by a maximum three years’ imprisonment. There were no reports of arrests for breach of the law.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at

<https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

Neither the constitution nor the law specifically provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government generally respected these rights for its citizens.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Access to Asylum: The law provides for granting asylum or refugee status, and the government has established a system for providing protection to refugees. The law includes a provision for nonrefoulement. Refugee advocates noted, however, the government allowed refugees to reside in the country only temporarily pending resettlement to a third country. The government did not provide a pathway to gain citizenship.

Abuse of Migrants and Refugees: As of July 31, 107 individuals formerly housed at the Australian government's Regional Processing Center in the country (used to house individuals seeking refuge or asylum in Australia), a site criticized for its poor conditions, remained in Nauru. The last refugees left the center in 2019 and all those remaining in the country were living in the local community, according to the Refugee Council of Australia.

Durable Solutions: The government grants five-year visas to asylum seekers after they receive refugee determination.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: International observers considered the most recent parliamentary election, held in 2019, to be generally free and fair. There were accusations, however, of actions taken to improve the government's electoral prospects. These accusations included late changes to the election law by the government of then president Baron Waqa allegedly to disadvantage nongovernment candidates, substantial payments by Waqa's government to persons affected by the 2006 collapse of the Bank of Nauru, and the approval of citizenship for 118 individuals in the weeks before the election.

The resulting 19-member parliament elected Lionel Aingimea, a former human rights lawyer and second-term member of parliament, as president.

Political Parties and Political Participation: Although political parties have the legal right to operate without outside interference, there were no formal parties.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate; however, participation by women was significantly less than by men. Two of the five women who ran in the August 2019 general election were elected to the 19-member parliament.

The country has a small and almost entirely homogeneous Micronesian population. There were no members of minority groups in parliament or the cabinet.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively.

Corruption: There were no reports of government corruption.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

The government did not restrict the establishment or operation of local human rights organizations, but no such groups existed. No international human rights organizations maintained offices in the country.

Government Human Rights Bodies: The Department of Justice had a Human Rights Section staffed by a human rights adviser, two human rights officers, and a liaison officer from the secretariat of the Pacific Community's Regional Rights Resource Team. The section was generally effective.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: Rape of women or men is a crime and carries a maximum penalty of 25 years' imprisonment. The law specifically applies penalties for rape of married and de facto partners. Police are required to investigate all reported rape cases. They generally did so, and the courts prosecuted cases. Observers said many instances of rape and sexual abuse went unreported. The law does not address domestic violence specifically, but authorities prosecuted domestic-violence cases under laws against common assault. The maximum penalty for simple assault is one year's imprisonment. The maximum penalty for assault involving bodily harm is three years' imprisonment.

Both police and judiciary treated major incidents and unresolved family disputes seriously.

Police officials stated they received frequent complaints of domestic violence, announcing that from March through September, the Domestic Violence Unit "recorded 158 cases of domestic dispute." In the run-up to the UN International Day for the Elimination of Violence against Women on November 25, the police

force presented a two-week daily Facebook series engaging men for behavior change “to shed abusive beliefs and violence.” Families normally sought to reconcile such problems informally and, if necessary, communally.

Sexual Harassment: There is no specific law against sexual harassment, but authorities could and did prosecute harassment involving physical assault under assault laws.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. A 2017 Asian Development Bank report indicated the contraceptive prevalence rate was 25 percent, and the UN Population Fund (UNFPA) reported there was a high unmet need for family-planning commodities. Causes of this unmet need included limited access to adequate sexual health and reproductive services, especially for individuals in the outer islands; perceptions of family-planning services as inconvenient, unsatisfactory, or culturally insensitive; cultural or religious opposition; lack of skills among those dispensing contraceptives and family-planning services; and misconceptions regarding side effects. The government provided some access to sexual and reproductive health services, including emergency contraception, for survivors of sexual violence. Such access, however, was limited by social stigma, cultural practices, and popularly accepted misconceptions. According to UNFPA, access to adolescent reproductive health services and information was limited, and the 2010-16 adolescent birth rate for girls ages 15 to 19 was 94 per 1,000. Other causes of this problem were inadequate access to contraceptives and cultural factors.

Discrimination: The law provides the same legal status and rights for women and men, including under family, religious, labor, property, nationality, and inheritance laws. The government did not enforce the law effectively. Discrimination in employment and wages occurred with respect to women (see section 7.d.).

Systemic Racial or Ethnic Violence and Discrimination

The constitution states, “every person in Nauru...has the right, whatever his race, place of origin, political opinions, color, creed or sex,” to life, liberty, security of the person, property, and the protection of the law; to freedom of conscience, of

expression, and of peaceful assembly and association; and to respect for their private and family life.

It was unclear whether the government enforced these provisions effectively.

Children

Birth Registration: Children derive citizenship if one of their parents is a citizen. The constitution also provides for acquisition of citizenship by birth in the country in cases in which the person would otherwise be stateless. The law requires registration of births within 21 days to receive citizenship, and families generally complied with the law.

Child Abuse: The government does not maintain data on child abuse, but it remained a problem, according to civil society groups. The law establishes comprehensive measures, including mandatory reporting, to protect children from abuse.

Child, Early, and Forced Marriage: The law prohibits marriage by persons younger than 18.

Sexual Exploitation of Children: The law prohibits the sale of children, offering or using a child for commercial sexual exploitation, and practices related to child pornography. The minimum age for consensual sex is 16. There are standardized penalties for sexual exploitation of children; intentional sexual intercourse with a child younger than age 16 is punishable by 25 years' imprisonment. Sexual intercourse with a child younger than 13 carries a penalty of life imprisonment.

The law establishes penalties for taking images of children's private acts and genitalia. If the child is younger than age 16, the maximum penalty is 10 years' imprisonment, and if younger than 13, it is 15 years' imprisonment. The same law prescribes tougher penalties for involving children to produce pornographic material. The maximum penalty if the child is younger than 16 is 15 years' imprisonment and 20 years' imprisonment if the child is younger than 13. The cybercrime law outlaws the electronic publication and transmission of child pornography.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The country does not have a Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports during the year that Nauru was a source, destination, or transit country for victims of human trafficking.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with disabilities. No legislation mandates services for persons with disabilities or access to public buildings. Although the government has installed mobility ramps in some public buildings, many buildings were not accessible. The Department of Education has a special education adviser who is responsible for education for students with disabilities, and teachers provided classes for a small group of students with disabilities.

The Department of Justice is responsible for protecting the rights of persons with disabilities. The law grants some legal protections for persons with mental disabilities. There were no reports of discrimination against persons with disabilities in employment, but social stigma likely led to decreased opportunities for employment.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

The law does not prohibit discrimination based on sexual orientation or gender identity. The law does not specifically cite sexual orientation, but it could be used

to aid in the prosecution of bias-motivated crimes against lesbian, gay, bisexual, transgender, queer, and intersex persons. There were isolated reports of violence against persons based on sexual orientation and gender identity.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent trade unions or other associations. It restricts freedom of association for police. While the right to strike is neither protected nor prohibited by law, a civil servant may not foment or take part in a strike and may be summarily dismissed if found guilty of organizing a strike. The law does not specifically provide for the right of workers to bargain collectively, but it does not prohibit it. The law does not prohibit antiunion discrimination, and there is no legal requirement to reinstate workers dismissed due to union activity; however, workers may seek redress through the civil court system.

The government effectively enforced the law, although gaps in worker protections remained. Penalties for violations include fines, which were commensurate with those for other laws involving denials of civil rights, such as discrimination.

The country lacked formal trade unions. Worker interests were represented by informal associations. The transient nature of the mostly foreign workforce hampered efforts to organize trade unions.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits but does not criminalize all forms of forced or compulsory labor. The government did not effectively enforce the law. The law does not stipulate penalties, and there were no labor inspectors. Civil courts handled cases of forced labor. There were no reports of forced labor or of government efforts to investigate, or prosecute perpetrators, or remove victims of forced labor.

c. Prohibition of Child Labor and Minimum Age for Employment

The worst forms of child labor were not prohibited. The law sets the minimum age of employment at 16. No regulations govern type of work, occupation, or hours for workers younger than age 18, nor do they identify hazardous occupations. The Department of Human Resources and Labor is responsible for enforcing the law. The government effectively enforced the law in the public sector but did not conduct any workplace inspections of private businesses. Penalties were not commensurate with those for other analogous serious crimes, such as kidnapping.

The only two significant employers – the government and the phosphate industry – respected minimum age restrictions.

d. Discrimination with Respect to Employment and Occupation

Labor laws and regulations do not prohibit discrimination in respect of employment and occupation. The law requires that public servants receive equal pay for work of equal value. Women working in the private sector did not have a similar entitlement.

The government did not effectively enforce the law, and discrimination against women in employment and wages occurred. Societal pressures, lower wages, and the country's general poverty limited opportunities for women. While women headed approximately one-third of all households, less than one-quarter of heads of households engaged in paid work were women. There were no reports the government took any specific action to prevent or respond to employment discrimination.

e. Acceptable Conditions of Work

Wage and Hour Laws: The minimum starting salary for public-sector employees is above the poverty level. There is no minimum salary for the private sector; approximately 26 percent of the population lived at the subsistence level. The law outlines a standard eight-hour workday and one-hour meal break for permanent and contract employees; workers were not required to work longer than nine hours. The law stipulates that for “each year of service, an employee is entitled to four weeks of recreation leave on full salary” and that it can be accumulated for up to

three years, at which time the employee must take leave to reduce the balance or “cash out” an amount of recreation leave to reduce the total leave balance accrued.

Public-service regulations govern salaries, working hours, vacation periods, and other employment matters for government workers, who constituted more than 90 percent of salaried workers. The government has a graduated salary system for public-service officers and employees. The law provides for maternity leave after a woman has completed six months of employment.

There is no limit to the maximum number of accumulated overtime hours and no prohibition on excessive or compulsory overtime for workers in the public sector. No specific regulations govern overtime or overtime pay for private-sector workers.

The Department of Human Resources and Labor effectively enforced wage and hour regulations in the public sector, and private-sector employers generally respected wage and hour guidelines. Penalties were commensurate with those for similar crimes, such as fraud. There were no reports of violations or prosecutions during the year.

Occupational Safety and Health: Although the government sets some health and safety standards, they do not have the force of law. The law does not provide workers the right to remove themselves from a hazardous workplace without jeopardizing their employment.

The Department of Human Resources and Labor effectively enforced occupational safety and health standards in the public sector. Enforcement was lax in the private sector, but no violations of labor regulations were reported. The law allows the department the right to inspect a workplace without prior notification. Authorities can charge an employer with a criminal offense if found to be in violation of the labor law or the provisions of an employment contract. Penalties were commensurate with those for similar violations. The number of inspectors was insufficient to monitor compliance fully.

With the decline of the phosphate industry, enforcement of workplace health and safety requirements continued to be lax.

Informal Sector: Most workers were employed in the informal sector in subsistence agriculture, fishing, and copra gathering. Laws and regulations on working conditions apply to the informal sector but were not enforced. Violations were reportedly common, but no inspections of the informal sector occurred.